

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PETER JAMES COOKS,

Plaintiff,

v.

CONTRA COSTA COUNTY,

Defendant.

Case No. 20-cv-02695-PJH

**ORDER DENYING WITHOUT
PREJUDICE MOTION TO FILE FIRST
AMENDED COMPLAINT**

Re: Dkt. No. 27

Before the court is plaintiff Peter Cooks' motion to file an amended complaint. On August 6, 2020, this court granted defendant Contra Costa County's motion to dismiss and dismissed both of plaintiff's claims with leave to amend. Dkt. 24 at 6. The court ordered plaintiff to file an amended complaint with 21 days of the date of the order and further ordered plaintiff's counsel to file proof of admission to practice within the same time period. Id.

One day after the deadline to file an amended complaint, plaintiff filed the present motion stating that, due to a calendaring mistake, his counsel missed the filing deadline and asking for permission to file a belated amended complaint. Dkt. 27. Plaintiff also stated that he has secured the assistance of local counsel and expects local counsel to appear within 14 days. Id. at 3. Defendant opposes the motion, arguing that plaintiff's proposed amended complaint would be futile. Dkt. 28. Defendant also points out that plaintiff added a new claim without the court's permission. Id. at 2.

Plaintiff's motion to file an amended complaint is deficient for two reasons. First, despite repeated warnings from the court, (see Dkts. 12, 20, 24), plaintiff's counsel has

1 attempted to prosecute this case without demonstrating admission to practice before this
2 court. While plaintiff represents that local counsel is forthcoming, the fact remains that
3 plaintiff filed the present motion without complying with the court's order. Second, in its
4 August 6th order, the court stated "[n]o new parties or causes of action may be pleaded
5 without leave of court or the agreement of defendant." Dkt. 24 at 6. Now, as defendant
6 points out, plaintiff has filed a proposed amended complaint that adds a new cause of
7 action. Defendant did not agree to the new cause of action, (Dkt. 28 at 2), and plaintiff's
8 motion to file an amended complaint omits any mention of the new cause of action.

9 For the foregoing reasons, plaintiff's motion for leave to file an amended complaint
10 is DENIED WITHOUT PREJUDICE. Plaintiff shall file a renewed motion for leave to file
11 an amended complaint that addresses the deficiencies raised in this order, including the
12 claim added without court approval, within 14 days of the date of this order. Plaintiff's
13 counsel shall file proof of admission to practice before this court within 14 days of the
14 date of this order. Continued failure to comply with the court's orders will result in
15 dismissal of the case with prejudice pursuant to Federal Rule of Civil Procedure 41(b).

16 **IT IS SO ORDERED.**

17 Dated: September 4, 2020

18 /s/ Phyllis J. Hamilton

19 PHYLLIS J. HAMILTON
20 United States District Judge
21
22
23
24
25
26
27
28